

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 50

Introduced by Landis, 46

Read first time January 6, 2005

Committee: Judiciary

A BILL

1 FOR AN ACT relating to housing; to amend sections 20-132, 20-134,
2 20-301, 20-303, 20-317, 20-318, 20-320, 20-321, 20-325,
3 68-1605, 71-15,134, and 76-1495, Reissue Revised Statutes
4 of Nebraska, and section 20-139, Revised Statutes
5 Supplement, 2004; to define terms; to prohibit
6 discrimination based upon sexual orientation; to
7 harmonize provisions; to provide severability; and to
8 repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 20-132, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 20-132. All persons within this state shall be entitled
4 to a full and equal enjoyment of any place of public accommodation,
5 as defined in sections 20-132 to 20-143, without discrimination or
6 segregation on the grounds of race, color, sex, sexual orientation,
7 religion, national origin, or ancestry.

8 Sec. 2. Section 20-134, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 20-134. Any person who directly or indirectly refuses,
11 withholds from, denies, or attempts to refuse, withhold, or deny,
12 to any other person any of the accommodations, advantages,
13 facilities, services, or privileges, or who segregates any person
14 in a place of public accommodation on the basis of race, creed,
15 color, sex, sexual orientation, religion, national origin, or
16 ancestry, shall be guilty of discriminatory practice and shall be
17 subject to the penalties of sections 20-132 to 20-143.

18 Sec. 3. Section 20-139, Revised Statutes Supplement,
19 2004, is amended to read:

20 20-139. The Nebraska Fair Housing Act and sections
21 20-123, 20-124, and 20-132 to 20-143 shall be administered by the
22 Equal Opportunity Commission, except that the State Fire Marshal
23 shall administer the act and sections as they relate to
24 accessibility standards and specifications set forth in sections
25 81-5,147 and 81-5,148. The county attorneys are granted the
26 authority to enforce such act and sections 20-123, 20-124, and
27 20-132 to 20-143 and shall possess the same powers and duties with
28 respect thereto as the commission. If a complaint is filed with

1 the county attorney, the commission shall be notified. Powers
2 granted to and duties imposed upon the commission pursuant to such
3 act and sections shall be in addition to the provisions of the
4 Nebraska Fair Employment Practice Act and shall not be construed to
5 amend or restrict those provisions. In carrying out the Nebraska
6 Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143,
7 the commission shall have the power to:

8 (1) Seek to eliminate and prevent discrimination in
9 places of public accommodation because of race, color, sex, sexual
10 orientation, religion, national origin, familial status as defined
11 in section 20-311, handicap as defined in section 20-313, or
12 ancestry;

13 (2) Effectuate the purposes of sections 20-132 to 20-143
14 by conference, conciliation, and persuasion so that persons may be
15 guaranteed their civil rights and goodwill may be fostered;

16 (3) Formulate policies to effectuate the purposes of
17 sections 20-132 to 20-143 and make recommendations to agencies and
18 officers of the state or local subdivisions of government in aid of
19 such policies and purposes;

20 (4) Adopt and promulgate rules and regulations to carry
21 out the powers granted by the Nebraska Fair Housing Act and
22 sections 20-123, 20-124, and 20-132 to 20-143, subject to the
23 provisions of the Administrative Procedure Act. The commission
24 shall, not later than one hundred eighty days after September 6,
25 1991, issue draft rules and regulations to implement subsection (3)
26 of section 20-336, which regulations may incorporate regulations of
27 the United States Department of Housing and Urban Development as
28 applicable;

1 (5) Designate one or more members of the commission or a
2 member of the commission staff to conduct investigations of any
3 complaint alleging discrimination because of race, color, sex,
4 sexual orientation, religion, national origin, familial status,
5 handicap, or ancestry, attempt to resolve such complaint by
6 conference, conciliation, and persuasion, and conduct such
7 conciliation meetings and conferences as are deemed necessary to
8 resolve a particular complaint, which meetings shall be held in the
9 county in which the complaint arose;

10 (6) Determine that probable cause exists for crediting
11 the allegations of a complaint;

12 (7) Determine that a complaint cannot be resolved by
13 conference, conciliation, or persuasion, such determination to be
14 made only at a meeting where a quorum is present;

15 (8) Dismiss a complaint when it is determined there is
16 not probable cause to credit the allegations;

17 (9) Hold hearings, subpoena witnesses and compel their
18 attendance, administer oaths, take the testimony of any person
19 under oath, and in connection therewith require for examination any
20 books or papers relating to any matter under investigation or in
21 question before the commission; and

22 (10) Issue publications and the results of studies and
23 research which will tend to promote goodwill and minimize or
24 eliminate discrimination because of race, color, sex, sexual
25 orientation, religion, national origin, familial status, handicap,
26 or ancestry.

27 Sec. 4. Section 20-301, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 20-301. Sections 20-301 to 20-344 and section 7 of this
2 act shall be known and may be cited as the Nebraska Fair Housing
3 Act.

4 Sec. 5. Section 20-303, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 20-303. For purposes of the Nebraska Fair Housing Act,
7 the definitions found in sections 20-304 to 20-317 and section 7 of
8 this act shall be used.

9 Sec. 6. Section 20-317, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 20-317. Restrictive covenant shall mean any
12 specification limiting the transfer, rental, or lease of any
13 housing because of race, creed, religion, color, national origin,
14 sex, sexual orientation, handicap, familial status, or ancestry.

15 Sec. 7. Sexual orientation shall mean a state of being
16 heterosexual, homosexual, or bisexual, having a history of such
17 orientation, or being identified with such an orientation. Sexual
18 orientation shall not be construed to protect conduct otherwise
19 proscribed by law.

20 Sec. 8. Section 20-318, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 20-318. Except as exempted by section 20-322, it shall
23 be unlawful to:

24 (1) Refuse to sell or rent after the making of a bona
25 fide offer, refuse to negotiate for the sale or rental of or
26 otherwise make unavailable or deny, refuse to show, or refuse to
27 receive and transmit an offer for a dwelling to any person because
28 of race, color, religion, national origin, familial status, sexual

1 orientation, or sex;

2 (2) Discriminate against any person in the terms,
3 conditions, or privileges of sale or rental of a dwelling or in the
4 provision of services or facilities in connection therewith because
5 of race, color, religion, national origin, familial status, sexual
6 orientation, or sex;

7 (3) Make, print, publish, or cause to be made, printed,
8 or published any notice, statement, or advertisement with respect
9 to the sale or rental of a dwelling that indicates any preference,
10 limitation, or discrimination based on race, color, religion,
11 national origin, handicap, familial status, sexual orientation, or
12 sex or an intention to make any such preference, limitation, or
13 discrimination;

14 (4) Represent to any person because of race, color,
15 religion, national origin, handicap, familial status, sexual
16 orientation, or sex that any dwelling is not available for
17 inspection, sale, or rental when such dwelling is in fact so
18 available;

19 (5) Cause to be made any written or oral inquiry or
20 record concerning the race, color, religion, national origin,
21 handicap, familial status, sexual orientation, or sex of a person
22 seeking to purchase, rent, or lease any housing;

23 (6) Include in any transfer, sale, rental, or lease of
24 housing any restrictive covenants or honor or exercise or attempt
25 to honor or exercise any restrictive covenant pertaining to
26 housing;

27 (7) Discharge or demote an employee or agent or
28 discriminate in the compensation of such employee or agent because

1 of such employee's or agent's compliance with the Nebraska Fair
2 Housing Act; and

3 (8) Induce or attempt to induce, for profit, any person
4 to sell or rent any dwelling by representations regarding the entry
5 or prospective entry into the neighborhood of a person or persons
6 of a particular race, color, religion, national origin, handicap,
7 familial status, sexual orientation, or sex.

8 Sec. 9. Section 20-320, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 20-320. (1) It shall be unlawful for any person or other
11 entity whose business includes engaging in transactions related to
12 residential real estate to discriminate against any person in
13 making available such a transaction or in the terms or conditions
14 of such a transaction because of race, color, religion, sexual
15 orientation, sex, handicap, familial status, or national origin.

16 (2) For purposes of this section, transaction related to
17 residential real estate ~~shall mean~~ means any of the following:

18 (a) The making or purchasing of loans or providing other
19 financial assistance:

20 (i) For purchasing, constructing, improving, repairing,
21 or maintaining a dwelling; or

22 (ii) Secured by residential real estate; or

23 (b) The selling, brokering, or appraising of residential
24 real property.

25 (3) Nothing in this section shall prohibit a person
26 engaged in the business of furnishing appraisals of real property
27 from taking into consideration factors other than race, color,
28 religion, national origin, sexual orientation, sex, handicap, or

1 familial status.

2 Sec. 10. Section 20-321, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 20-321. It shall be unlawful to deny any person access
5 to or membership or participation in any multiple listing service,
6 real estate brokers organization, or other service, organization,
7 or facility relating to the business of selling or renting
8 dwellings or to discriminate against any person in the terms or
9 conditions of such access, membership, or participation on account
10 of race, color, religion, national origin, handicap, familial
11 status, sexual orientation, or sex.

12 Sec. 11. Section 20-325, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 20-325. The commission shall:

15 (1) Make studies with respect to the nature and extent of
16 discriminatory housing practices in representative urban, suburban,
17 and rural communities throughout the state;

18 (2) Publish and disseminate reports, recommendations, and
19 information derived from such studies, including an annual report
20 to the Legislature:

21 (a) Specifying the nature and extent of progress made
22 statewide in eliminating discriminatory housing practices and
23 furthering the purposes of the Nebraska Fair Housing Act, obstacles
24 remaining to achieving equal housing opportunity, and
25 recommendations for further legislative or executive action; and

26 (b) Containing tabulations of the number of instances and
27 the reasons therefor in the preceding year in which:

28 (i) Investigations have not been completed as required by

1 subdivision (1)(b) of section 20-326;

2 (ii) Determinations have not been made within the time
3 specified in section 20-333; and

4 (iii) Hearings have not been commenced or findings and
5 conclusions have not been made as required by section 20-337;

6 (3) Cooperate with and render technical assistance to
7 state, local, and other public or private agencies, organizations,
8 and institutions which are formulating or carrying on programs to
9 prevent or eliminate discriminatory housing practices; and

10 (4) Annually report to the Legislature and make available
11 to the public data on the age, race, color, religion, national
12 origin, handicap, familial status, sexual orientation, and sex of
13 persons and households who are applicants for, participants in, or
14 beneficiaries or potential beneficiaries of programs administered
15 by the commission. In order to develop the data to be included and
16 made available to the public under this subdivision, the commission
17 shall, without regard to any other provision of law, collect such
18 information relating to those characteristics as the commission
19 determines to be necessary or appropriate.

20 Sec. 12. Section 68-1605, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 68-1605. (1) The department shall use the funds in the
23 Homeless Shelter Assistance Trust Fund to finance grants for
24 projects or programs that provide for persons or families with
25 special housing needs.

26 (2) Projects and programs to which funds shall be
27 provided include eligible community, neighborhood-based,
28 housing-assistance organizations, institutions, associations, and

1 societies or corporations that:

2 (a) Are exempt from taxation under section 501(c)(3) of
3 the Internal Revenue Code as defined in section 49-801.01;

4 (b) Do not discriminate on the basis of age, religion,
5 sex, sexual orientation, race, color, or national origin;

6 (c) Provide residential housing for at least eight hours
7 of every twenty-four-hour period; and

8 (d) Operate a drug-free premises.

9 (3) The department shall establish an advisory committee
10 consisting of individuals and groups involved with housing issues,
11 in particular those pertaining to persons or families with special
12 housing needs, to advise and assist the department in establishing
13 criteria, priorities, and guidelines for eligibility requirements,
14 application requirements and dates, public notification, and
15 monitoring and shall assist the department in adopting and
16 promulgating rules and regulations for providing grants from the
17 fund.

18 (4) An application submitted by an organization
19 representing a number of eligible applicants may be considered even
20 though the representing organization may itself not qualify under
21 this section.

22 (5) In making grants pursuant to the Homeless Shelter
23 Assistance Trust Fund Act, the department shall consider, but not
24 be limited to, the following factors:

25 (a) The number of night-lodging units provided by the
26 applicant as measured by the number of persons housed per night;

27 (b) Participation by the applicant in community planning
28 processes and activities aimed at preventing and alleviating

1 homelessness;

2 (c) Other verifiable units of service provided by the
3 applicant; and

4 (d) The geographic distribution of funds.

5 Sec. 13. Section 71-15,134, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-15,134. Nothing contained in the Nebraska Housing
8 Agency Act shall limit the ability of any local housing agency to
9 establish and apply different criteria or requirements with respect
10 to admissions and occupancy, to utilize different methods of
11 establishing and charging rents, or to impose different occupancy
12 standards (1) for different developments or portions thereof or (2)
13 with respect to recipients of assistance in any program designed or
14 intended to differentiate between individual recipients on the
15 basis of their circumstances, actions, or characteristics, except
16 that a housing agency shall not discriminate on the basis of race,
17 national origin, sexual orientation, or religion.

18 Sec. 14. Section 76-1495, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 76-1495. A landlord may not:

21 (1) Deny rental on the basis of race, color, religion,
22 sexual orientation, sex, or national origin;

23 (2) Require any person, as a precondition to renting,
24 leasing, or otherwise occupying or removing from a mobile home
25 space in a mobile home park, to pay an entrance or exit fee of any
26 kind unless for services actually rendered or pursuant to a written
27 agreement. A landlord may restrict the movement of mobile homes to
28 reasonable hours and may require that all work in connection with

1 the removal or installation of a mobile home, including, ~~but not~~
2 ~~limited to,~~ the hookup or disconnection of utilities, be done in a
3 good and workmanlike manner;

4 (3) Deny any resident of a mobile home park the right to
5 sell that person's mobile home at a price of his or her own
6 choosing. The tenant shall, prior to selling the mobile home, give
7 notice to the landlord, including, ~~but not limited to,~~ the name of
8 the prospective purchaser. Unless otherwise agreed in writing, the
9 landlord may reserve the right to approve or disapprove the
10 prospective purchaser of the mobile home as a tenant within ten
11 days after receiving notice of the intended sale. Any disapproval
12 shall be in writing and shall be delivered to such tenant pursuant
13 to section 76-1474. The landlord shall not unreasonably refuse or
14 restrict the sale by a tenant of a mobile home located in his or
15 her mobile home park, but the landlord may consider the size, ages,
16 and composition of the prospective purchaser's family in
17 determining if the mobile home purchaser may leave the home in the
18 park. The landlord may also, in order to upgrade the quality of
19 the mobile home park, prescribe reasonable requirements governing
20 the age, physical appearance, size, or quality of the mobile home.
21 In the event of a sale to a third party or mutual termination of
22 the rental agreement, the landlord may within ten days after
23 receiving written notice of the pending sale or mutual termination
24 require that any mobile home that is no longer appropriate for the
25 mobile home park or that is in disrepair be repaired to the
26 landlord's satisfaction or removed from the park within sixty days.
27 The landlord shall specify in writing the reasons for disapproval
28 of the mobile home;

1 (4) Exact a commission or fee with respect to the price
2 realized by the tenant selling the mobile home, unless the park
3 owner or operator has acted as agent for the mobile home owner
4 pursuant to a written agreement; or

5 (5) Require a tenant to furnish permanent improvements
6 which cannot be removed by the tenant without damage to the mobile
7 home or mobile home space at the expiration of the rental
8 agreement.

9 Sec. 15. If any section in this act or any part of any
10 section is declared invalid or unconstitutional, the declaration
11 shall not affect the validity or constitutionality of the remaining
12 portions.

13 Sec. 16. Original sections 20-132, 20-134, 20-301,
14 20-303, 20-317, 20-318, 20-320, 20-321, 20-325, 68-1605, 71-15,134,
15 and 76-1495, Reissue Revised Statutes of Nebraska, and section
16 20-139, Revised Statutes Supplement, 2004, are repealed.